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<p>NURIA SIERRA,</p> <p>Plaintiff,</p> <p>v.</p> <p>JERSEY CITY EMPLOYMENT & TRAINING PROGRAM, INC., SUDHAN THOMAS, ANGEL SANTA, and JOHN DOES 1-10,</p> <p>Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION, HUDSON COUNTY</p> <p>DOCKET NO.: HUD-L-</p> <p><u>CIVIL ACTION</u></p> <p>COMPLAINT AND JURY DEMAND</p>
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Plaintiff Nuria Sierra ("Nuria" or "Plaintiff") hereby complains and alleges as follows:

INTRODUCTION

1. This is a case of someone who was fired for doing the right thing – and protecting the public while so doing.
2. As the Jersey City Employment & Training Program's accountant, Plaintiff Nuria Sierra was essentially the organization's last line of financial defense: It was her job to make sure the Jersey City Employment & Training Program's money was spent properly – and in accordance with exactly strict federal, state and local guidelines and related internal policies.

3. But, when Nuria reported the cardinal financial sins of her superiors – *inter alia*, checks written and other monies illicitly taken from publicly-funded bank accounts written out to CASH by the Jersey City Employment & Training Program’s Executive Director, employees not being paid, and health insurance being canceled for failure to pay premiums (so, among other things, JCETP employees who needed chemotherapy could not get it) - the Jersey City Employment & Training Program fired Nuria.
4. A devoted public servant and watchdog of the public purse, Nuria deserved far better. Indeed, JCETP’s treatment and firing of Nuria breaks New Jersey law – and, though she now must go to court to do it, she is determined to hold the JCETP accountable for its misdeeds.

PARTIES AND JURISDICTION

5. Plaintiff repeats and realleges the allegations of the preceding paragraphs as if same were set forth more fully herein.
6. Plaintiff is a life-long Jersey City, New Jersey resident who presently resides at 81 Storms Avenue, City of Jersey City, County of Hudson, State of New Jersey.
7. Defendant Jersey City Employment & Training Program, Inc. (“JCETP”) is a non-profit 501(c)(3) corporation organized and operating under the laws of the State of New Jersey, and located at 398 Martin Luther King Drive, City of Jersey City, County of Hudson, State of New Jersey. Of instant relevance, though at least nominally independent, JCETP has been formally designated as an “administrative entity” of and by the City of Jersey City. In this vein, the JCETP administers the City’s mandatory “One-Stop” services under the federal Workforce Innovation and Opportunity Act, as same is further defined *infra*.

8. Defendant Sudhan Thomas (“Thomas”) is an individual and who resides at 25 Center Place, Apartment 512, City of Jersey City, County of Hudson, State of New Jersey. Of instant relevance, Thomas is the JCETP’s Executive Director (the JCETP’s “CEO”).
9. Defendant Angel Santa (“Santa,” and, together with JCETP and Thomas, the “Defendants,” and, each, a “Defendant”) is an individual who resides at 8 West Farms Square Plaza Apartment 6F, Bronx, New York. Of instant relevance, Santa is the JCETP’s Chief Financial Officer and Director of Finance (the JCETP’s “CFO”).
10. Plaintiff is unaware of the true names or capacities, including whether they are individuals or business entities, of Defendant Does 1 through 10, and therefore sues them by such fictitious names, and will seek leave of this Court to insert true names and capacities once they are ascertained.
11. At all times mentioned herein, Defendants and each Defendant, inclusive of Defendants Does 1 through 10, were authorized and empowered to by each other to act, and did so act as agents of each other, and all of the claims herein alleged to have been done by them were thus done in capacity of such agency. Upon information and belief, all Defendants were and are responsible in some manner for the events described herein, and are liable to Plaintiff for damages she has incurred.
12. As Plaintiff is a resident of Jersey City, Hudson County and the State of New Jersey; as Defendants all reside, are located or otherwise operate in Jersey City, Hudson County and the State of New Jersey; as the various incidents and harms to Plaintiff, as same are detailed herein, occurred in Jersey City, Hudson County and the State of New Jersey; and as Plaintiff’s Complaint sounds in New Jersey State law, this Court is the proper forum for trial in this action.

ALLEGATIONS COMMON TO ALL COUNTS

13. Plaintiff repeats and realleges the allegations of the preceding paragraphs as if same were set forth more fully herein.
14. To suggest Nuria was a “longtime” JCETP employee is an understatement: She started work at the JCETP nearly three decades ago and has been there virtually ever since. In 1990, the JCETP hired Nuria as a high school intern, and she worked as an intern until 1996. In 1998, the JCETP brought Nuria on full-time in its Accounts Payable (its “AP”) department, and not long thereafter promoted her to the position of Accountant – the position she would proudly hold at the JCETP until the events described herein unfolded.
15. Nuria was a model JCETP employee. She was never reprimanded, suspended or otherwise disciplined during her tenure. To the contrary, Nuria’s JCETP personnel file is replete with letters of commendation and good evaluations, and she consistently received merit-based raises.
16. However, as Plaintiff will detail *infra*, Nuria’s nearly thirty-year career at the JCETP crashed down because she did her job.

The JCETP and How It Is Funded

17. Though technically a stand-alone non-profit corporation, JCETP’s existence was and is mandated by the United States Workforce Innovation and Opportunity Act (“WIOA”), 29 U.S.C. § 3101, *et seq.* In sum, WIOA requires cities like Jersey City to create so-called “one-stop” service centers, which provide holistic career services, job training and other employment programs to citizens in need. 29 U.S.C. § 3151(e). The JCETP is Jersey City’s “one-stop” service center and WIOA provider, and, accordingly,

at all times relevant, Jersey City has designated the JCETP as its “administrative entity” for purposes of WIOA and other related laws.

18. Upon information and belief, “one-stop” service centers like the JCETP are primarily – if not exclusively – funded by public monies. For instance, upon information and belief, the JCETP’s almost \$3 Million annual budget is funded via a combination of: WIOA grants, which, pursuant to 29 U.S.C. § 3162(b)(1)(C), are filtered to the JCETP through both the State of New Jersey and City of Jersey City; United States Department of Housing and Urban Development (“HUD”) Community Development Block Grant (“CDBG”) funds, authorized under 12 U.S.C. § 1701x and distributed pursuant to 24 C.F.R. § 570 et seq.; as well as other state and local grants.

19. The JCETP is thus subject to and must rigorously comply with various requirements – including, but not limited to, strict accounting requirements – imposed on it by the statutes, regulations and/or entities from or through which the JCETP receives its funds.

Federal Funding and Oversight of the JCETP

20. As established *supra*, the JCETP receives funding from at least two federal sources – WIOA and CDBG grants. Each of these imposes requirements on the JCETP.

WIOA Grants and Oversight

21. WIOA not only requires states and localities to create “one-stop” service centers like the JCETP, it imposes strict requirements on the use of federal funds at those facilities.

22. For instance, WIOA requires each State to:

“establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds allocated to local areas under [WIOA]. Such procedures shall ensure that all financial transactions carried out under [WIOA] are conducted and records maintained in

accordance with generally accepted accounting principles applicable in each State.” 29 U.S.C. § 3244(a)(1).

23. Additionally, WIOA expressly requires states, local areas (like Jersey City) and providers (like the JCETP) to “comply with the applicable uniform cost principles included in appropriate circulars or rules of the Office of Management and Budget (the “OMB”).” 29 U.S.C. § 3244 (2)(A).

CDBG Grants and Oversight

24. Similarly, the JCETP received CDBG funds – and, as Plaintiff will explain below, Defendants’ expenditure of some of the CDBG funding the JCETP received is at the core of this Complaint.

25. Like WIOA, HUD imposes strict requirements on the use of CDBG funds and grant recipients.

26. Upon information and belief, like WIOA funds, CDBG monies are distributed by HUD to the State of New Jersey, which then filters them to local governmental entities (like the City of Jersey City, which, in turn, distributes them to providers like the JCETP) and/or service providers (like the JCETP).

27. As such, HUD regulations require the State to adopt and employ “fiscal and administrative requirements for expending and accounting for all [CDBG] funds.” 24 C.F.R. § 570.489.

28. Among other responsibilities, New Jersey must thus “ensure that [CDBG funds] are *only* spent for reasonable and necessary costs of operating programs [related to CDBG and HUD initiatives].” *Id* (emphasis added).

29. Just like WIOA, HUD regulations further require New Jersey to “ensure that recipients of the State’s CDBG funds comply with [OMB] Regulations regarding expenditures and accounting].” Id.

OMB Oversight

30. As set forth above, since it receives both WIOA and CDBG funds, the JCETP is subject to the requirements and restrictions imposed on it by WIOA and HUD. However, as WIOA and CDBG regulations expressly state, the JCETP also faces a *third* layer of federal oversight – that of the OMB.

31. The OMB specifically requires federal grant recipients to comply with “Generally Accepted Accounting Principles” (“GAAP”), which are “accounting standards issued by the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB).” 2 C.F.R. §§ 200.49, 200.515(d)(1)(i)(requiring grant recipient financial statements to be prepared in accordance with GAAP). Broadly stated, GAAP requires that non-profit entities like the JCETP specifically articulate in financial statements every expense they incur. See, e.g., FASB ASC 928-720-50.

32. Additionally, and perhaps even more critically, the OMB directly requires federal grant recipients like the JCETP to develop and “maintain effective internal control over the Federal [grant] award.” 2 C.F.R. § 200.203. Put differently, unless the JCETP has effective internal policies and procedures (that keep it in compliance with federal laws, regulations and requirements), it would be *ineligible to receive federal funds*.

State Funding and Oversight of the JCETP

33. Beyond its federal funding, the JCETP also receives monies from the State of New Jersey - whether the State is simply distributing Federal grant funds to the JCETP or making its own grant contributions to the JCETP.
34. In any event, to comport with federal laws and regulations related to WIOA and CDBG grants, and to ensure the proper expenditure of any monies it independently contributes to the JCETP, the State of New Jersey also subjects the JCETP to strict accounting and other requirements.
35. New Jersey requires entities like the JCETP to have or employ an “accounting system” that includes “methods and records established to identify, assemble analyze, classify, record and report [their] transactions and maintain accountability for the related assets and liabilities.” N.J.A.C. 5:31-7.1(a). By rule, the JCETP’s accounting system “must make it possible to present fairly and with full disclosure the financial position and results of financial operations of the funds and account groups of [the JCETP], in conformity with [GAAP].” N.J.A.C. 5:31-7.1(c).
36. To this end, just like the federal government, the State mandates that the NJETP develop, implement and maintain “an internal control structure.” N.J.A.C. 5:31-7.2. The JCETP’s “internal control structure” must be designed to ensure the “proper conduct of the entity's business with full accountability for the resources made available, and must provide the State of New Jersey with “assurance that [State] assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with the respective governing body's authorization and recorded properly to permit the preparation of financial statements in accordance with GAAP.” N.J.A.C. 5:31-7.2.

37. Additionally, per New Jersey regulations, the JCETP must provide the State with monthly (or, at least, quarterly) financial reports that “reflect [the] current financial position” of the JCETP, so as to “facilitate regulatory budgetary oversight.” N.J.A.C. 5:31-7.4.

38. In sum, New Jersey takes great pains to track how entities like the JCETP spend public grant monies – and the State takes the mandates it imposes on such entities seriously: To wit, in the event of any “illegal act, shortage or irregularity” in or related to an entity like the JCETP’s books, the State demands that it be put on immediate notice of same. N.J.A.C. 5:31-7.7 (mandating that, “[w]hen an illegal act, shortage or irregularity is detected, the New Jersey Division of Local Government Services must be notified by “means of a special confidential report”).

Local Monies and Oversight of the JCETP

39. Lastly, the JCETP also receives money from the City of Jersey City, and is thereby subject to its requirements and restrictions as well.

40. The City of Jersey City describes the JCETP as “one of the City’s grant beneficiaries,” and expressly states that it “provides the organization partial grant funding.” JERSEY CITY, N.J. CODE OF ORDINANCES ORD. No. 15.116.

41. Moreover, the City distributes to the JCETP some or all of the WIOA grant funds it receives either from the federal government or the State. RESOLUTION OF THE CITY OF JERSEY CITY, RES. No. 15.116. As a distributor of WIOA funds, the City must follow both the above-referenced federal and State laws and regulations regarding such funding – and ensure the JCETP does so as well. Id.

42. Consequently, Jersey City must and does monitor the JCETP's use of City grant monies.

Id; see JERSEY CITY, N.J. CODE OF ORDINANCES ORD. No. 15.116.

43. To comport with Jersey City's oversight – which is memorialized in a written agreement between the City and the JCETP – the JCETP must, *inter alia*:

- a. Establish and maintain a Management Information and Reporting system that is “acceptable to the City on operations and expenditures, subject to such approval as may be required by federal, state or local laws or regulations;
- b. Provide quarterly written reports to the City “on levels of program operation and expenditures”;
- c. Remit to the City “bank reconciliations” that “provid[e] control and a proper audit trail as required under [WIOA]”;
- d. Procure audits of WIOA funds it receives and submit to a semi-annual *City* audit to “verify all revenues and expenditures comply with the rules, regulations and guidelines of [WIOA] and other federal, state and local laws.

RESOLUTION OF THE CITY OF JERSEY CITY, RES. No. 15.116, JERSEY CITY EMPLOYMENT AND TRAINING PROGRAM (JCETP) AND THE CITY OF JERSEY CITY AGREEMENT.

44. Jersey City's oversight of the JCETP is not merely window dressing. The City aggressively enforces WIOA and its aforesaid agreement(s) with the JCETP, and has rebuked the JCETP and threatened to suspend or cancel its funding when the JCETP has fallen out of step with the City's requirements. JERSEY CITY, N.J. CODE OF ORDINANCES ORD. No. 15.116.

The JCETP's Internal Controls

45. To comply with the aforesaid federal, state and local requirements (which, as stated *supra*, expressly *mandate* that the JCETP develop and implement “internal controls systems”), the JCETP developed, implemented and maintains strict financial policies and procedures. These policies and procedures are – and, as they were updated on or about July 10, 2017, at all times relevant, have been - memorialized in a comprehensive guidebook entitled Jersey City Employment & Training Program Financial Policies and Procedures (the “Policy Guide”), which is attached hereto as **EXHIBIT A** and is incorporated herein by reference.

46. Given the aforesaid governmental mandates, in order to continue to qualify for federal, state and local grants, the JCETP must follow its internal policies, which, upon information and belief, must be vetted and approved by the State before they may be implemented.

47. The JCETP's policies – as set forth in the Policy Guide – are incredibly strict, and, *inter alia*, govern how the JCETP draws funds from its bank accounts and otherwise pays vendors and providers. (Policy Guide at 8-10.) Various of these internal policies are at instant issue and will be specifically articulated *infra* as they become relevant to Plaintiff's claims.

The JCETP's Internal Policies and Procedures and Nuria's Role in Enforcing Them

48. As the JCETP's accountant, Nuria was tasked with helping to keep the JCETP in line with all federal, state and local rules and requirements governing the JCETP's use of grant monies, as well as the JCETP's internal policies and procedures that arose from such governmental oversight.

49. More specifically, Nuria was in charge of the JCETP's Accounts Payable -- essentially, tracking, ensuring payment of and properly recording all transactions related to the JCETP's expenses.

50. Not surprisingly, the JCETP's internal policies and procedures regarding its Accounts Payable are – and, at all times relevant, have been - robust. Though these policies are set forth in detail in the Policy Guide, the process by which the JCETP pays its bills may be summarized as follows:

- a. All JCETP expenses (other than “minor” expenses, which will be defined and addressed *infra*) must be established in invoices.
- b. All “incoming invoices” to the JCETP must be “received by the Accounts Payable Accountant [i.e., Nuria] and the staff person responsible for ordering the products [or services].”
- c. The staff member responsible for the invoice had/has to then “review the validity of the invoices and prepare payment request vouchers.”
- d. Once those vouchers were prepared, Nuria was required to review them to ensure their accuracy, then send them to the JCETP's Certified Financial Officer (“CFO”) for approval.
- e. After the CFO “verified and approved” the invoices and payment requests, Nuria would “enter the invoices into the accounts payable module in Financial Edge [the JCETP's accounting computer software] and process payment[s].”
- f. To process payments, Nuria was required to “print a check register report listing of all checks” that were set to be paid, and forward same, along with all corresponding invoices, to the CFO for verification and approval.

- g. The CFO would then “review the invoices and the accompanying reports to ensure transactions [were] coded correctly and charged to the appropriate grants.” If the CFO had any questions or concerns regarding the “amounts and validity of the invoices,” Nuria would have to “provide necessary information to the CFO before final approval [was] given and checks [were] processed.”
 - h. Once the CFO gave “final” approval, payment checks were processed for all approved invoices – with “[c]heck runs [taking] place bi-monthly, on the 15th of each month and the last day of each month.” (Policy Guide at 8.)
51. The JCETP’s policies and procedures thus established a cradle-to-grave vetting process and paper trail for each JCETP expenditure – again, all to satisfy the strict governmental scrutiny to which the JCETP was subject.
52. The bottom line of these procedures: No one except for Nuria was allowed to cut checks for any JCETP expense – and Nuria could only create checks at the end of the aforesaid process, and even then, only via the JCETP’s accounting software (which had a function whereby it drafted the JCETP’s checks), so that a proper paper trail could be established.
53. This said, JCETP policies and procedures do – and, at all relevant times, did – allow for payment of “minor expenses” by cash. However, such minor expenses were and are specifically defined in the Policy Guide as “postage, office supplies, and other emergency expenses not to exceed \$50.” (Policy Guide at 9.) Moreover, even the JCETP’s cash payments and petty cash reserve are – and, at all times relevant, have been - subject to express rules:

- a. The JCETP “petty cash” fund cannot exceed \$600 – and no more than \$600 in cash may be drawn out of the JCETP’s bank account(s) to fund its petty cash reserve in any month.
- b. The JCETP’s CFO is the “custodian” of the JCETP’s “petty cash fund,” and is thereby responsible for the distribution of cash.
- c. Each “petty cash requestor” must sign the JCETP’s “petty cash sheet” to memorialize his/her receipt of funds.
- d. The “requestor” must then submit an itemized receipt for any petty cash purchase to the CFO.
- e. At the end of each month, the JCETP’s AP Accountant (i.e., Nuria) was and is required to “prepare the journal entry of the petty cash transactions” – essentially, a draft entry into the JCETP’s accounting software.
- f. The CFO was and is then required to “review the journal entry for accuracy and approval before it is posted to the general ledger” in the JCETP’s reportable accounting ledger

54. For roughly twenty years as the JCETP’s AP Accountant, Nuria’s job went smoothly: Her supervisors and JCETP’s other staff members diligently followed the JCETP’s policies and procedures – and, hence, stayed in accord with all federal, state and local requirements, restrictions and regulations.

55. However, once Defendant Thomas took charge of the JCETP in January 2019, things unraveled quickly – and when Nuria objected and raised red flags, she was fired.

Thomas Takes Over and Breaks the Law

56. Thomas was appointed the JCETP’s Executive Director in January 2019.

57. Upon information and belief, Thomas became the JCETP's Executive Director because of the backing of Jersey City Mayor Steven Fulop ("Fulop"), who orchestrated the removal of the JCETP's prior CEO, former New Jersey Governor James McGreevey.
58. Fulop previously appointed Thomas to JCETP's Board of Directors in April 2018. With Fulop's support, Thomas became Chairman of the Board. It was from this position that Thomas was able to install himself as Executive Director.
59. Though Thomas initially promised the JCETP would continue to operate as if it were "business as usual," inside a month on the job, Thomas either forced out or otherwise caused the resignation of the JCETP's then-CFO and its accountant in charge of Accounts Receivable (i.e., Nuria's counterpart). This left Nuria as the JCETP's sole accountant.
60. Thomas then hired a new CFO – Defendant Santa.
61. In or about late March or early April 2019, the JCETP was set to receive a check for \$77,000 of CDBG grant monies. This \$77,000 CDBG grant payment was earmarked to *reimburse* the JCETP for certain expenses it had previously incurred. Ergo, to properly account for it, these CDBG funds *had to* be placed into the JCETP's normal business/operating account.
62. Thomas learned about the \$77,000 check – and, oddly, personally traveled to the City of Jersey City office where the check was being held rather than simply waiting (an extra day) for it to be mailed to the JCETP.
63. Even more peculiarly, once he picked it up, Thomas did *not* take the check to deposit at Provident Bank – where the JCETP had *always* done its business and maintained its

accounts. Instead, Thomas took the \$77,000 CDBG check to Bayonne Community Bank (“BCB”), where Thomas used it to open *five new bank accounts*.

64. In any event, and even more strangely still, once Thomas opened the JCETP’s BCB accounts, Thomas did not give Nuria (the JCETP’s sole accountant) or Santa (the JCETP’s CFO) *any access to the accounts*, including, but not limited to electronic access to them. As a result, neither Nuria nor Santa – per the JCETP’s internal policies and procedures, the two JCETP staff members in charge of and responsible for tracking the JCETP’s expenses - had any way to track the expenses of the JCETP.

65. Nuria immediately sounded the alarm and questioned (both verbally and via email in or about March 2019) Thomas and Santa as to why neither she nor the JCETP’s CFO were given necessary access to the JCETP’s BCB accounts.

66. Nuria was told that (i) she did not need access, (ii) she should not question Thomas, and (iii) she should be careful what she said inside and outside the office about how Thomas was handling the JCETP and its funds.

67. As she had no way of accessing the accounts, tracking the JCETP’s expenditures or verifying that the JCETP was acting in accordance with its internal policies and procedures (and, hence, the various governmental requirements imposed on it), Nuria declined to reconcile (i.e., make sure that the money leaving the BCB accounts matched the JCETP’s alleged expenditures from those accounts) the JCETP’s BCB accounts or sign off on the legitimacy of any expenditures from them.

68. Instead, Santa took charge of reconciling - or, at least, trying to reconcile - the JCETP’s new BCB accounts.

69. However, Santa quickly ran into trouble.

70. Though neither Santa nor Nuria had access to the JCETP's BCB accounts, at the end of each month, BCB did (apparently, unbeknownst to Thomas) send the JCETP all canceled checks from JCETP's BCB accounts for that month.
71. In or about late April 2019, Santa came to Nuria with one canceled check drawn from one of the JCETP's BCB accounts in April 2019, and said: "I know you're not doing this [i.e., reconciling the accounts], but, I need your help – what do you do with this [check]?"
72. The canceled check in question was (i) for \$7,500, (ii) signed by Thomas, and (iii) **made out to CASH**. On the check's "Memo" line was written: "Capital Outlay Purchase."
73. Just as disturbingly, Thomas drew this \$7,500 check to CASH from the JCETP's BCB "Discretionary Account." For its entire history, the JCETP maintained – and needed – only three accounts at Provident Bank: a Depository Account (for *all* grant deposits), an AP Account (for all JCETP expenses other than payroll) and a Payroll Account (for all employee salary payments). The JCETP would deposit all monies into its Provident Depository Account, then transfer those funds to its AP and Payroll Accounts as (vetted and approved) expenses and payroll obligations came due. However, for unspecified and inconceivable reasons, at BCB, in addition to Depository, AP and Payroll Accounts, Thomas had also opened and placed under his control "Discretionary Account" and a specific "CDBG Account."
74. Thomas' creation of the BCB Discretionary and CDBG Accounts created a host of problems. Among them was a material technical accounting problem: Upon information and belief, Thomas deposited the aforesaid \$77,000 CDBG check into the

CDBG and/or Discretionary Account(s) – *not* the JCETP’s BCB Depository Account. This was a significant. As stated above, the \$77,000 in CDBG funds was a *reimbursement* for monies the JCETP had paid out of its Provident Discretionary Account. Therefore, those funds had to be placed into the JCETP’s Provident Account, to replace the monies that came out of it. The \$77,000 check could *not* be placed into a new account. Until that error is corrected – and, upon information and belief, it has not been – the JCETP’s books will not balance. This means the JCETP will not be able to comply with GAAP, and it will fall out of compliance with its internal policies and procedures, and, just as importantly, local, state and federal requirements of it.

75. Since neither she nor Santa had access to any JCETP BCB account information, Nuria those told Santa that he needed to question Thomas about the \$7,500 check to CASH – and the expense it allegedly financed.
76. Nevertheless, Santa entered the \$7,500 as a “Maintenance and Repair” expenditure both in the JCETP’s accounting ledger and on a financial report the JCETP was required to prepare for and submit to the State each month. When pressed by Nuria as to why he did this, Santa explained that Thomas had told him to classify the \$7,500 that way.
77. Pursuant to her responsibilities as the JCETP’s AP accountant, Nuria asked Santa (i) for receipts and/or invoices from whatever Thomas had purchased with the \$7,500, (ii) why Thomas had made the check to CASH, and (iii) why Thomas had bypassed the aforesaid exacting procedures regarding all JCETP Accounts Payable.
78. To all Nuria’s aforesaid questions, Santa merely said: “[Thomas] would not tell me.”

79. Santa did, however, tell Nuria that (i) she was not allowed to speak to, email or otherwise communicate with Thomas about accounting issues, (ii) she should not question Thomas, and (iii) “everything” Nuria wished to raise was to go through Santa instead.
80. Nuria thus expressly explained to Santa that (i) *no one* at JCETP was allowed to write out checks from the JCETP or draw from JCETP accounts on his or her own initiative, (ii) all checks had to be processed through the JCETP’s express AP procedure and drafted by Nuria via the JCETP’s accounting computer software, and (iii) in no event could checks be written to CASH the way Thomas had done.
81. Santa agreed with everything Nuria told him.
82. But, it did not stop Thomas.
83. On or about May 4, 2019, Thomas wrote **two more checks to CASH** – both in the amount of \$4,500, for a total disbursement to CASH of \$9,000. This time, Thomas did not write anything – except for sets of seemingly random numbers – on the checks’ Memo lines as an explanation.
84. Again, as she did not have access to the JCETP’s BCB accounts, Nuria did not learn of Thomas’ May 4, 2019 checks to CASH until (i) BCB mailed such canceled checks to the JCETP, and (ii) Santa brought them to her because he did not know how to handle them.
85. Upon receiving this second round of checks to CASH, Nuria questioned Santa as to whether he had told Thomas not to write JCETP checks himself – and certainly not to write checks to CASH from JCETP accounts.

86. Santa mumbled that he did tell Thomas not to write checks, but explained that Thomas had told him the May 4, 2019 checks to CASH were for “training.”

87. Alas, even were this the case, Thomas and Santa still violated express JCETP policies.

The Policy Guide sets forth comprehensive instructions as to how “training providers” are procured and paid:

- a. “A written training contract shall be provided to training providers ... [which] contract shall include the contract amount, schedule of benchmark payments, deliverables, time frame, type of training and participant information.” (Policy Guide at p. 7.)
- b. Before the contract is even *generated* (let alone issued), the JCETP’s account (i.e., Plaintiff) must be allowed to review the contract and training budget with the JCETP’s CFO (i.e., Defendant Santa) to confirm “the availability of funds.” Id at 7-8.
- c. If funds are available, the CFO may approve the training at issue, and the JCETP’s accountant may then generate the contract *and* a purchase order (which must be memorialized in the JCETP’s internal computer accounting software), and send same to the prospective training provider. Id at 8.
- d. Before a training provider may be paid, it must “submit invoices to [Accounts Payable] with backup documentation for each benchmark [it] completes.” Id. The JCETP must then review those invoices to ensure both their accuracy and that the training provider met the relevant benchmark(s). Id.
- e. If everything is on the up-and-up, the Accounts Payable Department will create a “payment voucher” it must submit to the CFO for approval. Id. Notably, “[a]ll

payments executed on the contract [must] be receipted in the [JCETP's] financial system and posted to the general ledger." Id.

f. Finally – only after all the aforesaid – may payment be made. Id.

88. *None* of this happened here: Even assuming Thomas used all \$9,000 he withdrew via the May 4, 2019 checks to CASH for training, Thomas did *not* do so through any existing contract or produce any receipt or invoice for the alleged “training” expenditures.

89. When Nuria pressed Santa on the need for (at a bare minimum) an invoice or receipt, Santa simply told her that “[Thomas] does not have one.”

90. Instead, upon information and belief, as he did with Thomas’ alleged “Maintenance and Repair” expense in April 2019, without any proof and without following proper internal procedures, Santa retroactively categorized Thomas’ May 4, 2019 checks to CASH as “training” expenses in the JCETP’s ledger and on its mandatory monthly State financial report.

91. But, Thomas was not done.

92. On or about May 10, 2019, Thomas directly withdrew \$3,000 cash – whether via ATM or teller transaction – from the JCETP’s Provident accounts. There was and remains no indication as to what Thomas did with the cash he withdrew from the JCETP’s Provident account. Thomas did this through two withdrawals - one for \$2,500 from the AP Account and one for \$500 from the Depository account.

93. As she had done repeatedly after all of Thomas’ financial transgressions, Nuria complained about Thomas’ withdrawal of \$3,000 cash from the JCETP’s Provident Depository Account to Santa – her direct supervisor at the JCETP.

94. Upon information and belief, Nuria's complaints to Santa fell on deaf ears – or, at least, Santa did nothing to curb Thomas and his illicit behavior.
95. Worse still, as Thomas was drawing down the JCETP's various accounts via checks to cash and other cash disbursements, critical JCETP's bills and expenses were going unpaid and unmet.
96. For example, Thomas would not authorize payments or execute and send checks to cover the premiums for JCETP's health insurance for its employees. As such, upon information and belief, the JCETP's employee health insurance coverage was either suspended or canceled. Nuria learned of this when a co-worker who needed chemotherapy was denied treatment by the JCETP's insurer because the JCETP had not paid its bills.
97. Not only did Defendants' failure to provide health insurance likely breach an agreement between the JCETP and its employees, Plaintiff reasonably believed it was related to Defendants' illicit depletion of the JCETP's bank accounts: As Nuria had no access to the JCETP's BCB accounts, she did not know if the JCETP even had sufficient funds to pay its insurance bills – and, with Thomas' continued, unchecked draws on the JCETP's accounts, Nuria feared the worst.
98. Ergo, on July 5, 2019, Nuria filed a complaint with the New Jersey State Comptroller regarding the JCETP's failure to provide health insurance.
99. Additionally, at Thomas' direction, the JCETP stopped payroll and other necessary payments to certain employees and/or former employees. Such employees were due pay, and, in the case of the former employees, compensation for unused vacation after

they left. Checks were made out to each employee and former employee due money, but, upon information and belief, Thomas compelled Santa to void these checks.

100. Nuria learned of this and told Santa that it was unlawful not to pay the employees and former employees the money they were owed. Nonetheless, upon information and belief, these employees and/or former employees have never been paid the money they were due.

101. Nuria was right: State of New Jersey regulations expressly state that, unless one or more specific, enumerated conditions exists, “[n]o employer may withhold or divert any portion of an employee’s wages.” N.J.A.C. 34:11-4.4. As none of the enumerated conditions allowed the JCETP to withhold monies from the employees who were not paid, Defendants violated New Jersey law. Even had the employees in question been discharged by or chosen to leave the JCETP, Defendants were still required to pay them “not later than the regular payday for the pay period during which the employee[s]’ termination, suspension, cessation of employment ... took place.” N.J.A.C. 34:11-4.3. By violating these regulations, Defendants may be charged with discrete disorderly persons offenses for *each day* they have not paid the employees at issue, and, if they found guilty, face a \$1,000 fine as a criminal penalty for each day they are in violation of the regulations. N.J.A.C. 34:11-4.10. Additionally, Defendants may be assessed administrative penalties by the New Jersey Department of Labor and Workforce Development (the “DOL”) of as much as \$500 per regulatory violation per day. Id.

Nuria Must Engage State Auditors

102. Given Santa's inaction (or, at the least, ineffectiveness) re: Thomas, Nuria was forced to contact DOL auditors to try and stop Thomas.
103. She tried to speak with DOL auditors when they visited the JCETP for a routine annual audit on May 28, 2019, but the auditors were told by Santa not to speak to Nuria.
104. Accordingly, on or about May 31, 2019, Nuria emailed one of the DOL auditors, James Reed ("Reed"), with a list of irregularities she believed he needed to investigate.
105. In early June 2019, Reed and the DOL's Audit Supervisor, Theresa Valley ("Valley"), visited the JCETP to speak with Thomas. After the conversation, Valley came to Nuria's office and said: "Don't worry – we are going to be able to talk to you, and we are going to try and help you." Nuria thanked Valley.
106. On or about June 19, 2019, Nuria again emailed Reed with the following message: "Please review [the JCETP's] May bank statements."
107. On or about June 20, 2019, Reed and Valley emailed Thomas and Santa and demanded they turn over various JCETP documents. Santa showed this email to Nuria.
108. However, Santa explained to Nuria that he would not comply with Reed and Valley's email directive: He said that he did not believe the JCETP needed to send the DOL the documents its auditors had demanded. Upon information and belief, Santa, Thomas and the JCETP still have not complied with the DOL's document demand.
109. On or about June 27, 2019, Nuria emailed Reed and asked him to investigate the three aforementioned checks drawn by Thomas to CASH from the JCETP's accounts, and attached pictures of the canceled checks to the email.

110. Notably, given the financial irregularities detailed herein and/or the JCETP's failure to comply with its auditors' document demands, the DOL has threatened to suspend the JCETP's funding.

111. Moreover, the various aforementioned internal policies and procedures, and governmental restrictions, regulations and requirements are – and, at all times relevant have been - expressly designed to prevent and/or allow for the detection of theft of, fraud in the disposition or accounting of, or other criminal activity related to the public monies disbursed to the JCETP and other similar entities. Plaintiff had a patently reasonable belief that Defendants' failure to abide by any of the aforesaid was the consequence of their violation of other laws and/or engagement in other criminal or illicit activity.

Nuria Pays the Price

112. On or about July 5, 2019, Nuria took a vacation day.

113. Their suspicions undoubtedly raised by the visits from DOL auditors, Thomas and Santa used Nuria's absence to their advantage – to either investigate Nuria's involvement in the DOL's increased oversight or, even worse, tamper with her (and the JCETP's) financial books.

114. Around midday, Nuria was notified by JCETP staff that Santa had broken into her work computer.

115. Incensed and confused (as no one at the JCETP had her computer password), Nuria called the JCETP's IT staff member, who told Nuria that he was forced by Thomas to give Santa Nuria's computer password. The IT staffer explained: "I had to ... [Thomas] made a big stink about it."

116. Nuria then called Santa and asked him why he was on her computer. At a minimum, Nuria had to ensure the sanctity of the JCETP's financial records – and could not allow Santa to alter or otherwise tamper with them.

117. Santa told Nuria's that Thomas had ordered him to "get onto" her computer.

118. Nuria immediately texted Thomas, but, got no response.

119. Nuria also told Santa that she would email the JCETP board members about the incident.

120. On July 5, 2019, Nuria did exactly this: She emailed to at least two JCETP Board Members, Stacey Flanagan ("Flanagan") and Jacob Hudnut ("Hudnut"), whom Nuria had previously randomly met in the JCETP's offices, and explained to them Defendants' unlawful behavior, including, but not necessarily limited to, (i) Santa's breaking into Nuria's JCETP computer, and (ii) the Defendants' failure to maintain the JCETP's health insurance. Upon information and belief, Flanagan and Hudnut had visited the JCETP the day Nuria met them investigate Thomas' actions as the JCETP's Executive Director. Indeed, Flanagan and Hudnut had appeared at a Caucus Meeting of the Jersey City Council on June 10, 2019, and reported their unease about the way the JCETP was being run. Flanagan told the City Council that, "I have concerns . . . we see very few people (clients being served by the JCETP) and we have a very large budget".

121. However, rather than correct their behavior, Defendants punished *Nuria*.

122. On July 6, 2019, Defendants notified Nuria via mailed letter that she had been placed on administrative leave. The letter did not state any reason why Nuria had been so disciplined.

123. On July 10, 2019, Nuria received another letter from Santa, explaining that she (i) was still on administrative leave and (ii) her JCETP credentials had been deactivated.

124. At 12:03 PM on July 11, 2019, with nowhere else to turn, Nuria emailed Fulop, the City of Jersey City Council, various JCETP Board Members, the United States Attorney for the District of New Jersey, the Jersey City City Council and explained all the aforesaid – attaching proof (including, but not limited to, the aforementioned checks to CASH).

125. At 2:42 PM on July 11, 2019, a Defendants sent Nuria a letter via the United States Postal Service terminating her from her position at the JCETP.

126. However, upon his return, on or about July 31, 2019, Thomas abruptly resigned as the JCETP's CEO.

127. Nevertheless, Nuria has not been reinstated to her position.

FIRST COUNT – CONSCIENTIOUS EMPLOYEE PROTECTION ACT

128. Plaintiff repeats and realleges the allegations of the preceding paragraphs as if same were set forth more fully herein.

129. By and through the aforementioned actions, including, but not limited to suspending and terminating Plaintiff's employment, Defendants violated the Conscientious Employee Protection Act ("CEPA") by retaliating against Plaintiff for, among other things:

- a. disclosing or threatening to disclose to a supervisor or a public body and activity, policy or practice of the employer or another employer, with whom there is a business relationship, that she reasonably believed was in violation of a law, or rule or regulation promulgated pursuant to law; and/or

- b. providing information to, or testifying before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law by the employer or another employer, with whom there is a business relationship; and/or
- c. objecting to or refusing to participate in any activity, policy or practice which she reasonably believed was (1) in violation of a law, or rule, or regulation promulgated pursuant to law and/or constitutes improper quality of patient care, and/or (2) fraudulent or criminal, and/or (3) incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.

130. As a result of Defendants' retaliation for Plaintiff's resistance to, and/or objections to, and/or threatened and actual disclosure of what she reasonably believed was wrongful, illegal and/or criminal activity by JCETP, Thomas and Santa, including but not limited to acts that Plaintiff reasonably believed (a) contravened the aforesaid host of federal, state and local statutes, regulations, requirements and restrictions that governed the JCETP's operations, as well as possibly criminal laws prohibiting the use of public funds for personal use; (b) violated the JCETP's internal policies and procedures, which were (i) expressly required by the federal, state and local statutes and regulations set forth in subpart (a) of this Paragraph and otherwise throughout this Complaint, and (ii) designed to keep the JCETP in line with those statutes, regulations, requirements and restrictions; (c) violated New Jersey regulations regarding payments the JCETP was required to make to current and/or former employees; and (d) violated New Jersey law regarding the JCETP's obligation to provide health insurance to its employees, Plaintiff has suffered, and continues to suffer, economic loss, harm to her career, harm to her reputation, bodily injury with physical manifestations, severe emotional distress, and physical pain and suffering, as well as all other such damages compensable under CEPA.

WHEREFORE, Plaintiff, Nuria Sierra demands judgment against Defendants, the JCETP; Thomas, both individually and in his supervisory and/or managerial capacity; Santa, both individually and in his supervisory and/or managerial capacity; and John Does 1-10 (these names being fictitious as their present identities are unknown, jointly and severally, for harm suffered as a result of Defendants' violation of CEPA as follows:

- a. full compensation for back pay and benefits with full remuneration, with interest;
- b. full compensation for front pay and benefits with full remuneration, with interest;
- c. compensatory damages;
- d. consequential damages;
- e. punitive damages;
- f. Plaintiff's attorneys' fees with appropriate enhancement under Rendine v. Pantzer, 141 N.J. 292 (1995);
- g. costs of suit;
- h. interest; and
- i. such other relief the court may deem equitable and just.

Respectfully submitted,

MATSIKOU DIS & FANCIULLO, LLC
Attorneys for Plaintiff

By: /s/ Derek S. Fanciullo, Esq.
DEREK S. FANCIULLO, ESQ.

O'CONNOR, PARSONS, LANE & NOBLE, LLC
Attorneys for Plaintiff

By: /s/ Gregory B. Noble, Esq.
GREGORY B. NOBLE, ESQ.

DATED: August 8, 2019

JURY DEMAND

Plaintiff demands a trial by jury as to all issues.

MATSIKOUDIS & FANCIULLO, LLC
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Attorneys for Plaintiff

By: /s/ Gregory B. Noble, Esq.
GREGORY B. NOBLE, ESQ.

DATED: August 8, 2019

DESIGNATION OF TRIAL COUNSEL

Please take notice that pursuant to Rule 4:25-4, Derek S. Fanciullo, Esq., William C. Matsikoudis, Esq. and Gregory B. Noble, Esq. are hereby designated as trial counsel for Plaintiff in the within matter.

MATSIKOUDIS & FANCIULLO, LLC
Attorneys for Plaintiff

By: /s/ Derek S. Fanciullo, Esq.
DEREK S. FANCIULLO, ESQ.

O'CONNOR, PARSONS, LANE & NOBLE, LLC
Attorneys for Plaintiff

By: /s/ Gregory B. Noble, Esq.
GREGORY B. NOBLE, ESQ.

DATED: August 8, 2019

CERTIFICATION PURSUANT TO RULE 4:5-1

The undersigned, Gregory B. Noble, certifies on behalf of the plaintiff as follows:

1. I am an attorney admitted to practice law in the State of New Jersey, counsel for the above-named Plaintiff in the subject action.

2. The matter in controversy in this case is not, to my knowledge, the subject of any other action pending in any court or pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated.

3. There are no other parties who should be joined in this action that we are aware of at the present time.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

O'CONNOR, PARSONS, LANE & NOBLE, LLC
Attorneys for Plaintiff

By: /s/ Gregory B. Noble, Esq.
GREGORY B. NOBLE, ESQ.

DATED: August 8, 2019

